

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 372 OF 2005

Smt. Nikita V. Ketkar & Anr. ...Petitioners

Versus

Govind Waman Bhide & Ors. ...Respondents

.....

Mr. Prasad S. Dani, counsel for Petitioners

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 3RD FEBRUARY, 2005

P.C.:-

1. Heard Mr. Dani, the learned counsel for the petitioners who tried to be obstructionists in the execution of the decree passed in RAE Suit No. 574/1931 of 1984. The said suit was decreed by the Small Cause Court at Mumbai vide judgment and order dated 23.2.1999. Appeal No. 356/99 challenging the said decree came to be dismissed by the Division Bench of the Lower Appellate Court on 15.3.2004. Both these orders were challenged before this Court by filing writ petition No. 6687 of 2004, it was decided on 18.8.2004. This Court specifically observed that after the rent receipt was transferred in the name of heirs of original tenant, with the consent of all heirs, the other L.Rs. may continue to reside with the tenant who inherited the tenancy

without being labelled as sub tenant, but that would not make them co-tenants and, therefore, the contention that the other L.Rs. of Shriram Ketkar would be able to claim any tenancy was rejected. If regards be had to the view taken by this Court, the order passed by the executing court and which is impugned in this petition does not suffer from any errors apparent on the face of the record and therefore, does not call for interference under Article 227 of the Constitution.

2. The petition is therefore, rejected summarily.